

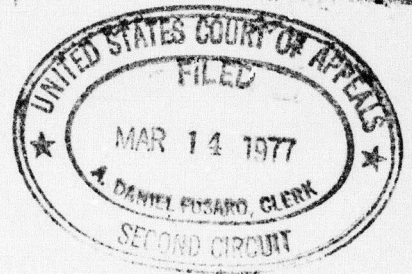
***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
BRIEF**

76 6/97

APPEAL
to
SECOND CIRCUIT COURT OF APPEALS
from
FROM EVERY DECISION MADE RELATIVE
to
CIVIL CASE 76 C 748
FILED IN EASTERN DISTRICT COURT
of
NEW YORK



CECILIA REYNOLDS

vs.

BRIEF OF APPELLANT

SECRETARY, DEPARTMENT OF HEALTH,
EDUCATION AND WELFARE; DIRECTOR,
CIVIL SERVICE COMMISSION;
NATIONWIDE REPORTING COVERAGE;
NORMAN GREEN

CECILIA REYNOLDS
pro se

Issues:

This appeal is from every decision made relative to 76 C 748 filed in Eastern District Court of New York. I believe the failure to make a decision is also a decision, especially when one was requested. According to the record, the only decisions in this case were made on November 15, 1976 (three pages), December 7, 1976 (less than four lines), and January 26 in the Court of Appeals (not substantive I was told). The issues outlined in my preargument statement submitted to the Court of Appeals on December 27, 1976 and previously mailed on December 22, 1976 are: due process, unequal treatment under the law of federal employees, limitations of sovereign immunity; illegal acts by federal employees; refusal to allow me to examine the tapes needed in my suit against Nationwide Reporting Coverage; scheduling a hearing for December 17, 1976 but rendering a decision before that date; failing to honor my requests for protection of the tapes and other evidence; failing to instruct the Social Security Administration to place me on approved

a,

leave with or without salary; failing to prevent the administration from firing me from my position; and all the items listed in my three page civil complaint.

Facts:

I have dealt with most of these issues in the memoranda previously submitted to the lower court. The court ignored material presented; failed to record it until after rendering decision; permitted the docket sheet to be changed repeatedly; did not allow me to see all the evidence; protected the federal defendants at my expense; did not accord me equal treatment with my opponents. An examination of the docket sheet will show that a large amount of material submitted periodically prior to the November 15 decision was not recorded until after that decision was entered. On August 9 I called the lower court to find out if there had been a decision on the hearing scheduled for August 6, 1976 which was scheduled to be decided on the papers submitted without oral arguments. I was told that the Judge had requested a memorandum of law. I received a copy of that memorandum in reply to my memorandum in opposition to their motion to dismiss on August

3.

18, 1976. When I examined the docket sheet later that month, I noticed that the reply memorandum had been entered on August 9, 1976, the day I had called. Because I became aware last week that alterations and substitutions were being made in material in my possession, including forging my name, I examined the notarized copies of the docket sheets with more care. I held several versions up to the light and noticed very slight variations. I am presenting a notarized copy of the district court docket taken by someone other than myself on March 4, 1977. My belief that I have not been allowed to see all the evidence stems from the fact that one page of the material presented to the court on December 3, 1977; taken immediately up to chambers; and retrieved from there by me on December contained the annotation "SS" on the top. The copy of service of the summons on Nationwide Reporting coverage in file contains a similar annotation "D .". When I was in the district court after this appeal was initiated, I asked to see the file. There were very few items there. However,

there were two envelopes, one empty. Both had stickers attached to the bottom rear portion of the envelope. One was a "C" and the other was a "6." They were white with blue and white with red. Material has been taken out of the file and replaced when I complained. After I wrote to Attorney General Levi, the affidavit of October 1, 1976 was replaced in the file. After I let it be known that I had a copy of the affidavit of November 18, the original was replaced in the file. One time I was looking for the file. The clerk sent me to chambers. It was not there. Nobody seemed worried. One of the clerks shouted out from the inner room, "Here it is. I just brought it down." Chambers and the courtroom are on the same floor, the clerk's office is downstairs, the office of the federal attorney I delivered my papers to on August 2 is on the 6th floor. I believe the judge had access to material I did not see. It is the only logical explanation for all the above facts and for the decisions which were totally unresponsive to the material presented, decisions which contained mistakes of fact. I believe in the administrative process I was also

not given access to evidence to which I am entitled. I repeatedly asked about a special study. It was consistently denied. However, Harry Bagon refers to "the audit." In my terminology that was a special study. It was made contrary to union-management agreement; I was not given an opportunity to rebut it. Since I discovered on March 7 that my name was signed to material I had never seen, and that my annotations were placed on material other than that on which I placed it, any such study could have been doctored in like fashion. Stamps of the courts, the notaries and the postal service have been placed on my material in an altered fashion. Material has been removed from my car, home and the homes of my associates. It has also been altered and replaced there. The same has happened in the files of the courts. Many variations have been made of the same document, even those of my opponents. Because of this I am submitting the best material I have in one set for the appendix. It was an impossible job to collate one set. I could not have done more.

The changes have been made to appear as if they were the work of a poor typist.

My opponents have misused the mails and my place of employment to affect this case. Two affidavits were submitted in late September and early October with copies of the letter concerned. In Exhibit 37 there are copies of the envelopes involved. photocopies of receipt stamps showing different postal markings are included. There are different types of stamps for Wappinger Falls Postmark. My local postman informed me a couple of months ago that only one postal stamp could be used for any postoffice at a given time. This was because I asked him to make official the signature of one of his coworkers showing receipt as of a certain date. He told me he couldn't do it, partly because the stamp had been recently changed and a different stamp was in effect at that earlier date. I have submitted two envelopes received by me on the same date. One came to me dated February 10, ^{from Wash. DC} postmarked February 11 at the Church Street Station, not the general postoffice, and reached me three days later in Wappinger Falls. Another came to me from the Bronx, through the Brooklyn General Post Office the next day, and through Wappinger Falls three days later. I wrote to a friend I had not seen in months to ask the name of a judge who had died in a car crash.

She called me a week later. She had not received my letter when she called. After a discussion of the delayed delivery, she received the mail. These facts concern me because I do not want to hear the claim that a notice of a hearing was made and I didn't show up. The male clerk who would be responsible for notifying me attempted to have me thrown out by the marshall on February 22, 1977 because I asked to take a copy of the motions calendar for that day. I notice that the motions calendar is typed on a typewriter like mine. So are many of the documents prepared by my opponents. I believe my opponents misused my place of employment to have this case dismissed on jurisdictional grounds; and have attempted to have me produce medical evidence to account for the leave I requested so that they may cover up their illegal use of medical records which they may have manufactured and/or secured over a forged signature. Forgeries on a transcript were so good they almost fooled me. They did until I read the material. I knew I had never seen the material. They conformed some of the changes to my statements to the courts and to others.

8.

They did not correct the whole thing because Norman Green's testimony is still shown as if it were on the second day of the hearing. It was on the first day.

My questions posed under the Privacy Act of 1974 have been either answered evasively or not at all by both my opponents and the administration. They have been answered evasively by the lower court.

The attorney listed on the record of this court as representing all four defendants had told me in June 1976 that she was not representing Nationwide Reporting Coverage. She has not as yet answered my request of February 24 to know if she was representing all four defendants.

I am submitting a copy of the EEO file I received eighteen months ago. It was made around that time and is yellowed with age. If you will hold it up to the light against comparable pages in a newer version, you will see that the pages are close, but not quite the same. There are differences that cannot be accounted for because the paper was not properly lined up.

9.

I am presenting tissue copies of material I gave the administration and/or the court. It should be easy to compare my carbon tissue copies with the altered material. I had many items notarized twice before presentation to the courts. The only differences between that material and the material of which it is a carbon is the placement of the notary stamp. If you will examine them, you will see that my name has been forged on material I did not sign.

I am presenting a copy of a letter I received from Nationwide showing skills in printing reproduction and in tape reproduction.

I am presenting copies of letters I have gotten from the pro se clerk in the district court and from a Senator. Both contain strikeovers. I am submitting unsigned letters from the Supreme Court and from Charles Coleman. I am presenting an address label from the Supreme Court. I could not possibly have had access to the Supreme Court material or to the Senator's letter-head stationery.

I am presenting a note from a coworker which was

stolen, forged, and reinserted in my material, the annotations are by me.

I believe my opponents have attempted to set me up to be blamed for a crime related to temporary employment in January of this year. If anyone is interested, I will tell him about it.

My opponents have access to the resources which were used to fool the German High Command about the invasion of Normandy. Knowing that my signature was forged so successfully, knowing the lengths to which my opponents have already gone, I can imagine the extent of their other activities.

I contacted two successive Presidents and two successive Attorney Generals while they were in office for help in protecting my civil rights. I also contacted numerous local officials. To date I have been advised that jurisdiction rests in the court. The lower court ignored my pleas for protection.

I will list some material presented to the court which I do not have readily available. The transcript of the EEO hearing presented to me

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in March 1976; Exhibit MM; my letter of November 28 together with the copy of the envelope showing delivery November 9, 1976; Pages 28 and 29 of Exhibit 37 showing notes made by H. Fitzmaurice on November 5, 1976; MM was subsequently altered to delete the discretionary sentence of the last paragraph giving supervisors options about "special situations;" My original copies of all four summonses; The one on Nationwide shows no "X" in the box "unable. ;" Page one of the memorandum I submitted in August was stolen, altered and replaced. In addition to the items listed as the basis of this claim, I listed the credentials given by Barry Goldwater in The Coming Breakpoint for our American Freedom. I believe they included the Magna Carta, the United Nations Charter, the Dunbarton Oaks Agreement, etc. The only things we need are our God given rights and the Constitution of the United States. Even my opponents respect that, if only in the breach. Pages from the material submitted December 3 were stolen. One may have referred to J. Vogel's urging me to file for a position in Quality Analysis; another may have referred to the day I sat in Judge Mishler's

Court

even though I was not scheduled for a hearing.

Copies of return receipts were stolen and replaced after they had been altered. Two had contained dates clearly annotated by the same hand as being received for both the federal attorney and the district court. I expect the court to produce the copies I entrusted to its care. The transcript had been forwarded to the Court of Appeals. I saw it in Room 1802.

Newspaper clippings which were stolen: a news release by a Congressman that someone, probably a disgruntled constituent, was sending poorly typed letters around over his signature on his stationery; the fatal highway accident in Mamare-neck on November 13 of N.Y.S. Judge Thomas C. Chimera, active in New York City Democratic Party Politics; the death of a leader of a minority political party noted as a "swing" party in Presidential elections in New York City. (If I remember correctly, it was Mr. Rose of the Liberal Party.) the report of the decision in Eastern District Court in December 1976 to disallow the challenge to the vote count in New York State for the recent elections which

had been made by a minority party; the meeting in Albany in Mid December of the electoral college to finalize the recent elections (I know the death of an elector in Dutchess County caused a vacancy which was filled by a local selection. I believe that selection had to be finalized by the endorsement of the incumbent President; the meeting in December of high level officials from all branches of the government with President Ford to discuss the large pay raise which he initiated for them before he left office; the endorsement of a newly elected Senator of the Regional Attorneys in New York despite the fact that he is a Democrat and they were Republican appointees;

I have many copies of different items in various places. Some items were stolen in one place but not in another. The withdrawal of the federal defendants requesting until November 5 to answer; My letter of July 20 to the Court with a copy to my opponents changing my address; The letter of September 2 from N. Vecellio; the December 7 Decision and Order; the original 3 page civil complaint.

As I pointed out in the 12 page affidavit to support this appeal(part of Exhibit 37) it is difficult to prepare an appeal when I am not given privy to the thinking of the court. The only hints I have are the material which has been stolen from me and the rumors circulated about me and discussed freely alongside me while I was still working.

If you will notice in the EEO complaint file, there were no interviews conducted after April for the "official" file. According to the cover letter from Mr. Hoston to Mr. Bergman transmitting the "official" EEO file, the "complete investigative file" was available for his use and was maintained in the office of Mr. Creech. I had a copy of that letter which he allowed me to take on April 26, 1976. That was one of the first pieces of evidence stolen from me in May 1976.

I believe the "complete investigative file" included interviews with people who were rewarded for their cooperation. They were conducted early in May 1975.

My module manager took time off while they were taking place. People working in the building discussed the interviews within earshot. Through one of these

people, a woman whose friend was the Secretary to Mr. Kuntz, the word was spread that I repeated had and was currently suffering from contagious social diseases. This was supposedly determined by the extensive testing which was made available to us in late 1974. We were promised confidentiality. The results were supposed to go only to a designated physician, if we named one. I did not designate any physician. I never permitted records to be released to Dr. Leeper in Central office. I have never released any information about my medical records to anyone in the government. The reports were so repeated and so vicious that I checked it out to find out for myself. I also had a complete check-up for cancer and spent four days in the hospital for a thyroid operation. Still the rumors persisted. I went again to make sure. That was four separate tests in less than a year. All reports were negative. I have never had a social disease and I have never been treated for one.

In mid March 1972 on a Thursday evening while working overtime Mr. Kotteck was sitting at his desk behind me. He was surrounded by about five of his friends. He was very angry with me.

One friend laughed in embarrassment, another joined in gleefully. The others were silent. He said "look at her there laughing and smiling as if she doesn't have a worry in the world. We'll get"

The comments were so personal and so cutting and so outrageous that from that day to this every time I think of a number and go to write it down, I do not necessarily put down the number that I am thinking about. That was five years ago and I still have the same trouble.

I will not even dignify the "rumors" I have been subjected to about my children. They are the products of depraved minds. I wish for everyone to have as good and as nice a family as mine.

The record of the court of appeals shows that all my opponents are represented by one attorney.

That is not what Ms. Vecellio told me. I asked her again in a letter dated February 24 about it.

She has not answered me. It is my understanding that the federal attorneys can only represent a firm if it is defacto an employee of the government.

Nationwide answered me separately. Except for the motion of November 29 and the letter of April 1976 they have consistently returned any mail.

Send.

I was in the office of Nationwide Reporting Coverage before I filed my suit last Spring. An employee was entering the locked door and held it for me behind him. I was waiting around for about ten minutes before anyone realized I was there. I overheard a conversation amongst the girls who were typing a record of a tape. It appears that a woman had challenged the transcript. The girls were convinced that the woman was crazy. They said, "Listen to her. It's right there! She's crazy!" I submit that, given the capabilities of Nationwide to alter and reproduce tapes, any expert on their staff could have made substitutions in the tapes without the knowledge of the girls who were certifying the record. The only way to compensate for that possibility would be to guarantee the person challenging the transcript the opportunity to subject the tape to the scrutiny of an expert of her own choice. I am not the first challenger. I will not be the last. I came away with the impression that Nationwide was also used in the employ of that firm, ^{one of the largest in the country} I may have been wrong. Nationwide may very well be an agency of the government. Under its own name or one of the many others it has taken since this suit was

initiated. It covers the entire United States. If that is true, it probably takes records of court sessions. That is dangerous. Dangerous for justice and for those attempting to administer justice. It means that anyone with enough influence can behind the scenes retroactively have the record changed to conform to his wishes. It places the judges and the public alike in defenseless positions. A poor woman trying to establish her rights to unemployment insurance, an alleged traffic violator, elderly tenants paying low rent on property desired by a large firm, a union-management dispute all are in the clutches of the person with the most influence. That is not justice. When administrative expediency mandates mechanical methods of reproducing records, justice mandates extra precautions to protect our Constitutionally guaranteed rights. It was never meant that behind the scenes powers could operate free from accountability. If a judge is no longer in control of a situation because the record can be adjusted at will, he can no longer act as an impartial arbiter.

The Decision of December 7 was not reported in the New York Law Journal. The docket sheet of the district court shows that all my opponents are in default.

Argument:

In the event of wrongdoing by a federal official acting in his official capacity the government is liable for his actions just as if it was a private party. Where privilege is claimed, the person damaged by the claim is entitled to substantial justice to offset that claim. (Rule 509). I have asked for evidence to support my claim. I will ask for additional evidence to fix the amount of the settlement. I am entitled to the information (U.S. v. Nixon, 418 U.S. 683, 94 S. Ct. 3090, 41 L. Ed. 2d 1039 (1974)).

Conclusion

I move that the court quickly grant me all relief sought in my original three page civil complaint; produce the evidence already submitted to the lower court; order the protection of me and of my evidence; order my reinstatement with back pay to August 6, 1976; and order the administration to grant me full leave until this case is settled.

Cecilia Reynolds

No. 796453

RECEIPT FOR CERTIFIED MAIL

SENT TO *West Verrell*

STREET AND NO. *235 Calmar P*

P.O. STATE AND ZIP CODE *NY 11201*

OPTIONAL SERVICES FOR ADDITIONAL FEE

1. Shows to whom and date delivered

With restricted delivery

2. Shows to whom, date and where delivered

With restricted delivery

RESTRICTED DELIVERY

SPECIAL DELIVERY (extra fee required)

PS Form Jan. 1976 3800

NO INSURANCE COVERAGE PROVIDED—NOT FOR INTERNATIONAL MAIL

(See other side)

☆ GPO: 1976-O-501-45

NEW YORK N.Y. 11201

RECEIVED

No. 796458

RECEIPT FOR CERTIFIED MAIL

SENT TO *Nationwide*

STREET AND NO. *5 Beekman St*

P.O. STATE AND ZIP CODE *NY*

OPTIONAL SERVICES FOR ADDITIONAL FEE

1. Shows to whom and date delivered

With restricted delivery

2. Shows to whom, date and where delivered

With restricted delivery

RESTRICTED DELIVERY

SPECIAL DELIVERY (extra fee required)

PS Form Jan. 1976 3800

NO INSURANCE COVERAGE PROVIDED—NOT FOR INTERNATIONAL MAIL

(See other side)

☆ GPO: 1976-O-501-45

NEW YORK N.Y. 11201

RECEIVED